IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Regular Second Appeal No. 4243 of 2007
Date of Decision: November 30, 2007

Ranjit Kaur and others.

.....APPELLANTS

VERSUS

Beant Singh and others.

.....RESPONDENTS

CORAM: HON'BLE MR JUSTICE T.P.S.MANN

PRESENT: Mr H.S.Bhullar, Advocate
for the appellants.

T.P.S .MANN, J.

The present is a second appeal filed by the plaintiffs against the concurrent findings of facts arrived at by the learned lower Courts, whereby the suit for declaration was dismissed.

The controversy in the case relates to the land of Nachhattar Singh, which he transferred to his son Beant Singh by way of registered document Ex.D1. On the basis of the same, mutation No. 3541 was also sanctioned. The aforesaid mutation was challenged by Ranjit Kaur by filing an appeal, but the same was dismissed by the Collector. Thereafter, she along with other plaintiffs filed the present suit, claiming that they were legal heirs of Nachhattar Singh since deceased and sought a relief of declaration that the instrument Ex.D1 was procured by Beant Singh with an intention to usurping the land of Nachhattar Singh and also to harm the

interest of the plaintiffs.

Defendant-Beant Singh opposed the suit and asserted that Nachhattar Singh was exclusive owner in possession of the suit property and before his death on 13.8.2003, he had transferred his property to him on 7.7.2003 by way of a registered instrument of transfer, commonly called "*Tabdeel Malkiat"*. On the basis of the same, mutation had already been sanctioned in his favour.

From the pleadings of the parties, learned trial Court framed 7 issues, but the contest was mainly in respect of issue Nos. 1 and 2. After perusing the pleadings and evidence led by the parties, learned Additional Civil Judge (Sr. Division), Phul dismissed the suit on 19.1.2006. The appeal met a similar fate on 31.7.2006, when the same was dismissed by learned Additional District Judge, Bathinda.

As is clear from the records available before me, the instrument of transfer Ex.D1 has been duly proved by the defendant by examining Harnek Singh, scribe and Raghbir Singh, attesting witness. The said document was registered by the Sub Registrar, who put his endorsement that he had read-over the document to Nachhattar Singh.

Though the instrument Ex.D1 is not a sale deed, yet by way of the same, Nachhattar Singh conveyed his rights by transferring them to his son Beant Singh. Such type of document falls within the ambit of Section 54 of the Transfer of Property Act.

Mere fact that no consideration had passed under the instrument Ex.D1, is no ground to hold that it did not confer any right of ownership upon Beant Singh. In ***Kuppuswami Chettiar*** vs ***A.S.P.A Arumugam Chettiar and another,*** AIR 1967 Supreme Court 1395, it was

held that a registered document termed as "release deed" executed without consideration, may operate as transfer by way of gift, when document clearly showed the intention to effect transfer and is signed by or on behalf of releaser and attested by at least two witnesses.

In view of the above, no case is made out for any interference in the concurrent findings of facts recorded by learned lower Courts below. No substantial question of law, as claimed by the plaintiffs-defendants, arises for determination.

The appeal, without being any merit, is hereby dismissed.

November 30, 2007 (**T.P.S.MANN)**
Pds **JUDGE**